

Exhibit D

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DIANNE L. KELLEY and KENNETH)	
HANSEN,)	
)	
Plaintiffs,)	
)	C07-0475 MJP
vs.)	
)	
MICROSOFT CORPORATION, a)	
Washington Corporation,)	
)	
Defendant.)	

30(B)(6) DEPOSITION UPON ORAL EXAMINATION OF
MICROSOFT CORPORATION
KATHRYN GRIFFITH
(CONTAINS CONFIDENTIAL TESTIMONY SUBJECT
TO PROTECTIVE ORDER)

9:04 A.M.

JUNE 10, 2008

1201 THIRD AVENUE, SUITE 3200

SEATTLE, WASHINGTON

REPORTED BY: CONNIE L. HOLTON, CCR 2975

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1 of your understanding that Mr. Casper is your lawyer
2 here today comes from Mr. Casper; is that right?

3 A. No. It comes from my understanding of the
4 content of the engagement letter, as well as past
5 practices. On my team there have been other
6 PricewaterhouseCoopers employees deposed as 30(b)(6)
7 witness on behalf of Microsoft.

8 Q. And is it standard in those cases for the
9 Microsoft lawyers to tell the Pricewaterhouse employees
10 that the Microsoft lawyers are the lawyers for
11 Pricewaterhouse during those depositions?

12 A. For the deponent. That the attorneys would be
13 representing the deponent, yes.

14 Q. Who do you report to?

15 A. I report to Robert Moline.

16 Q. And what -- spelling, please.

17 A. R-O-B-E-R-T M-O-L-I-N-E.

18 Q. And what is Robert Moline's position?

19 A. He's a partner within PricewaterhouseCoopers.

20 Q. Are you a partner?

21 A. I'm not. I'm a manager.

22 Q. And what is Mr. Moline's responsibility at
23 PricewaterhouseCoopers for the Microsoft work that you
24 do?

25 A. He oversees the engagement.

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1 Q. Tell me what it means to oversee the
2 engagement?

3 A. He assists in strategy on responding to
4 document requests.

5 Q. Was Mr. Moline involved in the strategy that
6 was employed in responding to document requests in this
7 matter?

8 A. Yes.

9 Q. And tell me each and every thing that you
10 learned from Mr. Moline regarding his strategy for the
11 response to document requests in this matter.

12 A. There are more conversations --

13 Q. Tell me --

14 A. -- on how to go about responding to each of
15 these requests.

16 Q. Tell me what Mr. Moline told you.

17 A. I don't recall.

18 Q. Did you make any notes?

19 A. With conversations with Mr. Moline?

20 Q. Yes.

21 A. I don't recall.

22 Q. Tell me why Mr. Moline would be involved in
23 strategizing as to how to respond to our request for
24 production of documents.

25 A. Because he is also heavily involved in the

1 Microsoft engagement.

2 Q. Is it standard practice for the accountants at
3 PricewaterhouseCoopers to be involved in Microsoft's
4 strategy for response to request for production of
5 documents?

6 A. I'm not an accountant.

7 Q. Is it standard practice for employees of
8 PricewaterhouseCoopers to be involved in developing
9 strategy for the response to request for production of
10 documents?

11 A. It's standard for a team of
12 PricewaterhouseCoopers' employees to evaluate the
13 documents that Microsoft has and be thoughtful about
14 what's available and what would be relevant.

15 Q. I appreciate that information, ma'am. It's
16 not quite the question that I asked.

17 The question is, Is it standard practice for
18 employees at PricewaterhouseCoopers to be involved in
19 the strategy behind Microsoft's response to request for
20 production of documents?

21 MR. CASPER: Objection. The question
22 was asked and answered.

23 Q. (BY MR. SMART) You can answer.

24 A. I think that the way I answered that's how I
25 was characterizing strategy, in terms of understanding

1 what documents are available and which ones would be
2 relevant.

3 Q. Answer the question I asked, if you would,
4 please, ma'am.

5 Is it standard practice for employees at
6 PricewaterhouseCoopers to be involved in Microsoft's
7 strategy for response to request for production of
8 documents?

9 MR. CASPER: Objection. The question is
10 vague and ambiguous, apparently, Mr. Smart, given your
11 use of the word strategy which appears to differ from
12 the witness's. And the question has been asked and
13 answered.

14 MR. SMART: As you know, you are not
15 entitled to make speaking objections, and I will warn
16 you this one time. I would like an answer to my
17 question. And so the witness has it fairly in front of
18 her, I would ask the court reporter to read it back.

19 (The reporter read back the last
20 question.)

21 MR. CASPER: Same objection.

22 A. And I would answer, given the -- my
23 understanding of the word strategy to mean understand
24 the documents that are available and help to educate
25 Microsoft's counsel about what is available and in what

1 form and then to gather those documents, then, yes.

2 Q. (BY MR. SMART) Who decided not to bring any
3 documents here today? Was that you, or was that
4 somebody else?

5 A. I did not bring any documents.

6 Q. Who decided that you would not bring documents
7 here today? Was that you or somebody else?

8 A. I decided based on discussions with others.

9 Q. And what others did you discuss the subject of
10 whether or not to bring documents to the deposition
11 here today.

12 MR. CASPER: I am going to object to the
13 question to the extent it seeks to invade the
14 attorney-client privilege and instruct the witness not
15 to answer with respect to any discussion that she had
16 with Microsoft's counsel.

17 MR. SMART: Yeah. I don't think that's
18 a proper objection.

19 Q. (BY MR. SMART) But so that the question is
20 fairly in front of you, Ms. Griffith, who did you
21 discuss the subject of whether or not to bring any
22 documents with you here to the deposition today?

23 MR. CASPER: Same objection.

24 A. I'm going to follow my attorney's advice.

25 Q. (BY MR. SMART) Well, did you discuss it with

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1 Griffith.

2 (Recess taken.)

3 THE VIDEOGRAPHER: We are back on
4 the record. The time is now 11:29 a.m. in the
5 continuing deposition of Kathryn Griffith.

6 Q. (BY MR. SMART) Ms. Griffith, as I understand
7 it, you have been identified as the 30(b)(6) deponent
8 for Microsoft pursuant to Exhibit Number 1, which is
9 our notice, on the following categories: 1 through 5,
10 7 and 8, 10 through 15, and 21; am I right?

11 A. Yes.

12 Q. Okay. Very good. Now with respect to the
13 counts and compilations of Windows Vista Capable
14 computers sold in the U.S., is there a number that you
15 have determined for how many were sold during the class
16 period?

17 MR. CASPER: Mr. Smart, for the record,
18 could we clarify which topic you're referring to?

19 MR. SMART: Yes. Number 1.

20 A. And your question again?

21 Q. (BY MR. SMART) Have you determined where the
22 counts and compilations of Windows Vista Capable
23 computers are?

24 A. No.

25 Q. Is there anybody at Microsoft who has done so?

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WITNESS MY HAND AND SEAL 13th day of JUNE, 2008.



CONNIE L. HOLTON
Certified Court Reporter
CCR No. 2975

Notary Public in and for the State
of Washington, residing in King
County. Commission expires 11-29-2011.

